CANADA-U.S. FREE TRADE:
U.S. PERSPECTIVES AND APPROACHES

A Study Prepared by Edward Nef
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Prepared By:
Edward Nef (Edward Nef Associates)
For the Ontario Ministry of Industry,
Trade and Technology

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By: Edward Nef
Edward Nef and Associates
Bethesda, Maryland

Summary

The initiative for some sort of Canada/U.S. trade agreement comes at a time of massive budget and trade deficits, nagging unemployment, and strong feelings that the trade "playing field" is not level. Nonetheless, the Administration remains free trade oriented and would argue hard for such an agreement before the more protectionist Congress.

Since it is generally thought the success of a free trade agreement depends on its being a Canadian initiative, no branch of Government has begun seriously to consider what negotiating objectives and priorities will be. The private sector is equally passive at the moment, and only tangential conclusions may be reached by analyzing positions taken when sectoral talks were on the schedule.

Traditional trade law enforcement procedures will be very hard to negotiate away, and many in the U.S. see the recently concluded Israeli Free Trade Agreement as a precedent; it is primarily a tariff reduction agreement and does not challenge existing trade law. However, if an agreement is successfully negotiated, it is unlikely the Congress would seek to alter it whimsically or unpredictably. U.S. targets in bilateral trade negotiations will be such things as Provincial restraints and subsidies. Reciprocity and benefit to the U.S. will be guiding principles. While there is considerable disenchantment with the GATT, its principles still provided the framework for the Israeli Free Trade Agreement.

The negotiations, if they deal with important matters, should last well into 1986, with final approval on the U.S. side foreseen as occurring not earlier than towards the end of that year. Some serious observers think the negotiation and approval process could take as long as five years.

The Congress will undoubtedly be very active in its consideration of an agreement. The Senate Finance and House Ways and Means Committees are key.

June, 1985

BACKGROUND

At the start of the first Reagan administration, the President proclaimed an interest in a "North American Accord," a common market which would include Canada and Mexico. The Congress responded with more muted enthusiasm, but it nonetheless mandated under law a study by the US Trade Representative's office (section 1104 of the Trade Act of 1974, as amended in 1979) of closer trade relations among the countries of North America. Both Houses established caucuses to develop further any ideas along those lines, and hearings were held in the US Senate to gauge the degree of interest in the subject.

By the time the fruits of those initiatives might have begun to ripen, both Canada and Mexico were deemed to have evinced little interest in the possibilities (despite testimony by such authorities as Canadian Senator Van Roggen). In addition, the complexities involved, the inability to get firm views from a large enough segment of the US private sector, the growing trade deficit of the US and the concomitant conviction (for domestic political purposes anyway) that world trade was played on an "uneven playing field", and the deterioration of the US economy all conspired to create within the Government an indifference if not actual opposition to the idea of a free trade arrangement (whatever its form or content), and the initiative quietly faded. The only remainder was the philosophic proclivity of the Reagan administration, which, despite occasional politically mandated retrenchments, continued, and still continues, to hold dear the concept of a free trade world reached via bilateral and/or multilateral negotiations.

The renewed discussion of free trade with Canada comes at a time of at least some changed perceptions:

continued and growing trade deficits, the soaring US dollar, nagging unemployment in certain key industries, difficulties with other trading partners (especially Japan, but also the European community) have changed the climate in the Congress, and perhaps has made the Executive more realistic in its expectations.

It has also created a potent trade lobby which uses its powers to try to achieve its often protectionist objectives. The recent interest in a Canada/US sectoral agreement ran into surprising difficulty; its apparent demise in favor of possibly a broader approach leaves many observers wary of predictions for the new proposals.

II. THE EXECUTIVE BRANCH

1) General:

Although power and authority for international trade relations are diffused throughout a number of executive branch agencies, including the International Trade Commission, the Department of Commerce, the State Department, Treasury (particularly for international investment), and the Department of Agriculture, the primary focus for coordination and formulation of policy remains the office of the US Trade Representative (USTR). To fulfill that role, USTR will pursue often very lengthy and complicated procedures. It will seek advice from the private sector via advisory committees. It will ask the ITC to hold hearings across the country. It may hold its own hearings. It will form inter-agency committees within the Government, and will consult with state governments and Congress if and when necessary. At the

conclusion of that process, it will formulate its negotiating position on each topic to be negotiated, and will keep in close touch with private sector representatives as negotiations with other countries proceed.

It is essential to recognize the importance of that long and complicated process, for any administration would be reluctant to invoke it before the ultimate goals of a negotiation were clear and agreed upon by the countries negotiating.

2) Negotiating Objectives and Priorities:

The so-called "Shamrock Summit" established a mandate for the executive branch of the Government to undertake a policy formulation leading to eventual negotiations with Canada for some sort of free trade arrangement between the two countries. The Reagan administration at this point is of the view that it has already clearly expressed its policy, which is to negotiate as broad a free trade arrangement as possible. But it is no where near having established its negotiating strategies, objectives, and priorities. There are several additional reasons for this beyond the generalization reported in the previous paragraph.

a) Canadian Initiative: There is without any doubt an overwhelming sensitivity for the need for Canadian leadership on this issue. The Reagan Administration keeps well in mind the political fall-out it encountered in 1981 when it made a major political statement in the US, calling for something like a North American common market, only to have the initiative

appear to be turned down by both Mexico and Canada. The prevailing view in the executive as well as the Congress is that if the initiative even appears to come from the US, it will not have a good chance; therefore, if one really seeks free trade, it is best to mute the public and private calls and permit the initiative to come from the other partner in the scheme.

But just as important is the view that objectives and priorities will vary, depending on what Canada proposes to the US. One official very close to the trade negotiation process put it simply: "Our objectives and priorities will be determined by what Canada puts on the table."

b) Other Distractions:

The ebb and flow of major initiatives in Washington is a fact of life. At the moment, the flow is with the Administration's tax reform proposal, coupled with continuing concern with the budget deficit. Trade matters are momentarily in ebb tide, and the bureaucracy is left without close political supervision. Inevitable, that is bound to slow the process. Even the press has commented on the apparent policy vacuum currently existing in trade matters: when asked when the President might focus on trade again, White House Chief of Staff Donald Regan is quoted as saying "that trade would not become 'a serious agenda item' until the period between next September and February 1986". (David Broder in the June 16, 1985 edition of the Washington Post.)

c) Leadership Vacuum:

The sudden departure of Ambassador Brock from the position of USTR has left a temporary vacuum. While Ambassador-designate Yeutter is held in high regard, the change at this moment is not to the best advantage of an undertaking as big and as important as a bilateral free trade negotiation with Canada.
(Note: Mr Yeutter may have been confirmed by the time this paper is submitted).

d) Private Sector Reticence:

While some industries have already taken a position on free trade with Canada, the private sector has generally been playing a low-profile role in this initiative. The New York business community view was expressed by Mr. Stephen Blank at a recent Financial Post conference in Toronto, and that view bears repeating: American business, while not opposed to free trade, is not necessarily for it either. It is not clear what US companies would do if a freer trade arrangement were reached.

That view finds expression in Washington in the lack of pressure at this point from the private sector for rapid action by the Government. In the absence of any concerted pressure, the bureaucracy, temporarily leaderless, is not inclined to undertake any new positions or establish any strong negotiating objectives or priorities. The private sector, like the administration, is taking a "let's wait and see what the Canadians propose" position.

However, it must also be said that knowledgeable observers and key participants in the policy formulation process have given the initiative some private thought, and out of these ruminations, one might catch the glimmer of possible future negotiating objectives and priorities. The following summarizes thoughts gleaned from conversations with government officials and influential private sector observers.

a) Investment opportunity in Canada remains a key objective. While the Canadian Government has reassured the Administration that the FIRA will be modified, and has taken action on that reassurance, US negotiators will undoubtedly be looking for as iron-clad guarantees as possible that FIRA will not be modified again contrary to US investment interests.

b) Provincial restraints are a deep and continuing concern, and efforts might be made to seek a system neutralizing provincial actions which limit trade. On a more specific level, provincial liquor policies are sure to come under attack, particularly with respect to wine and beer.

c) The Administration will be receptive to discussion of any and all trade matters. In other words, an objective might be to make the agreement as broad as possible.

d) Current trade imbalances will compel the US side to try to avoid transitional and/or permanent safeguards as much as possible.

e) Assuming Canadian concerns about countervailing and Buy-American clauses, the US side will undoubtedly seek to exact as heavy a price as possible for concessions on these two issues. Other matters of possible concern listed in the terms of reference for this paper do not arouse as much sensitivity and are deemed relatively negotiable (e.g., access to set-asides, protection of erosion of any agreement in future years); but countervail and Buy-American limitations are likely to arouse quick and hostile Congressional opposition. To be able to "sell" an agreement to the Congress, substantial concessions on these items will have to be obtained, in the view of one key negotiator, if they are negotiated at all.

f) Pricing structure for natural resources. A position on this may evolve as a result of congressional and constituent pressures. The lumber case brings it to the fore, but underlying the lumber case is a deeper concern that any linking of economies in trade must deal with the issue of natural resource pricing, in Canada as well as Mexico.

g) The linkage of rights of establishment with performance requirements. The problem of circumvention of procurement codes by creating performance requirements exists on both sides of the border, and is an item which could cause trouble to any free trade arrangement if not resolved. Trade negotiators will have to be sensitive to this.

h) Reciprocity will be a key guiding principle. Heard over and over again is the refrain: What is in it for the US? If no benefits are perceived as accruing to the US, it will be very difficult to negotiate any meaningful agreement, and reciprocity will be sought as a means to assure such benefit.

3) Response to Possible Canadian Objectives: As mentioned above, Canadian interest in countervailing actions in the US, and reaction to US Buy-American provisions will cause the greatest difficulty for negotiators. Long-standing Canadian policies of regional development will be pitted against the traditional US response, increasingly forceful as trade imbalances soar, to countervail. One Treasury official, however, made the comment that theoretically at least, countervail should not be an issue if real free trade develops, since subsidies and other reasons for countervailing would no longer be necessary. Canadian concerns over Buy-American clauses will face US concern over provincial restrictions and similar Buy-Canadian clauses in Canada. Inter-Provincial trade restraints are looked upon with concern as unfortunate precedents for broader freedom of trade.

However, as mentioned above, once those two key issues are dealt with, other Canadian objectives may be more reasonably attained. Set-aside programs are generally part of Government procurement programs, and therefore should be negotiable if both governments can agree to procurement policies that do not conflict or do not have performance requirements attached. Transitional safeguards will be regarded with suspicion and a US objective will undoubtedly be to assure that transitional measures do not become permanent safeguards. It will not be easy by any means, but in the view of observers the objectives should be attainable if

both sides are committed to the negotiation. Pessimists nonetheless point out the difficulties of procurement code development and adherence within the GATT.

4) US Government supporters-opponents: The US Government executive branch is unanimous in its verbal expression of support for a Canada/US free trade agreement; it could not be otherwise given the "marching orders" from the President. However, private assessments may be made regarding the degree to which individual agencies will work hard to help achieve the objective.

USTR plays the key role and as mentioned elsewhere, is biding its time to a certain degree, waiting for Canada to come forth with its proposals. Among other agencies, The State Department is probably the most in favor of an agreement, but is not particularly in the mainstream of the issue. Agriculture is so different a field, one must question whether it is even feasible to bring it into the process; in any event, agriculture presents such formidable obstacles that inevitably the Department of Agriculture bureaucracy will be the most negative. Labor may come a close second, given the growing divergence of interests in the labor communities on both sides of the border. (Former Ambassador Brock's appointment to that cabinet post, however, could change the situation considerably). Treasury is next on their list of recalcitrant agencies, and that is attributable to its primary concern for investment policies. There does not seem to be any clear consensus within any of the agencies supporting one form of agreement over another; any form would be acceptable, as long

as particular interests were cared for. There is some recognition that a sectoral approach does not appear particularly feasible at this time, however.

The US Congress remains the most important potential opponent of any agreement with Canada. It is discussed elsewhere in this paper.

5) Preferred Timetable: There is no preferred timetable as such, but there is an optimum timetable dictated by realities which guides those who will have to negotiate. However, other predictions are that the negotiation could easily take as long as five years. In the view of this observer, the "optimum" timetable described as follows is rather optimistic:

Mid-September, 1985: After Canada has announced what sort of a free trade agreement it wishes to negotiate (of course, assuming that is its decision; if it turns away from any free trade agreement, it is most doubtful the US would pursue the initiative) and the two countries agree to enter negotiations, the Administration will notify the Congress of that intention. It must do so 60 days before the negotiations start, if a fast-track for approval is sought. This is an important point, since the Administration has allegedly already told the Congress that it would use the fast-track permitted by the Trade Act of 1974 and reaffirmed in the Trade Act of 1979. In return for following certain procedures, the Congress is obligated to speed the process on the floor, not allowing any amendments and allowing only a yes-no vote on the bill.

Mid-November: the earliest time when negotiations can begin after the above-mentioned sixty day period has elapsed. Realistically, it probably means negotiations would not start until the end of the year.

March, 1986: the possible end of negotiations, and referral of a draft to the International Trade Commission for its study and review, including hearings. This could take six months. One must also assume US negotiators would keep in very close communication with the two congressional committees mandated by law to be responsible for such negotiations (the Senate Finance Committee and the House Ways and Means Committee, which presumably would hold their own hearings as well), and as a result it is entirely possible that the negotiation could easily drag out for a much longer period of time.

Fall, 1986: the earliest time when an agreement might be ready. Realistically, it might be seen as best to postpone further action until after the 1986 elections, which means the agreement would not be sent to the Congress until January of 1987. At that point, if all the work had been done properly, Congress would be obligated to move rapidly on implementing legislation and one could assume approval would be foreordained.

Spring, 1987: Congress approves implementing legislation and the Agreement is signed by the President.

6) Relationship to GATT: there was considerable divergence of opinion on the question of the relationship of a bilateral negotiation and the next GATT round, or GATT in general. One congressional source thought the relationship was extremely important; he saw the bilateral negotiation as focussing mostly on tariff issues. Non-tariff issues could be shunted off to the next GATT round. Another congressional source thought the exact opposite: it was her view that the Congress is "fed up" with the GATT, and could not care less if the GATT is by-passed or ignored in favor of any bilateral negotiation. One indicated satisfaction with the inclination to seek a broad agreement, since it would be consonant with GATT; the other said the mood in Congress was such that it did not care whether the agreement would meet with GATT approval. In the Executive branch, there seemed to be more respect for GATT, but a general view that the GATT should not interfere one way or another with a bilateral negotiation on free trade. Some thought it might help push trading partners towards a new GATT round, which they applauded but did not see as critical to the negotiation either. In summary, whether a relationship with GATT was seen as favorable or not, there was consensus that it should not affect either the timetable or goals of a Canada/US agreement, whatever they might be. This is discussed again in relationship to the Israeli Agreement (see below).

7) Trade in Services: Trade in services and the relationship of a bilateral negotiation with Canada to the GATT and a possible new GATT round of negotiations are interestingly intermingled. The Treasury Department was the most closely attuned to the problems and issues, and saw a bilateral negotiation as designed less to expand service trade as to define the "rules of the game". It pointed out that US service industry laws are extremely complex (as are Canadian) and not easily altered. The federal and state laws and regulations governing the banking industry, for example, are so complex it would be almost impossible to see how a free trade arrangement could simply throw the field open to outsiders. Similarly, both countries jealously guard their licensing authorities over lawyers, doctors and many other service providers, and are not about to permit a free flow of such services across borders, in the view of Treasury officials.

But others focussed on other types of services, such as transportation, broadcasting and communications, and entertainment, and thought services would indeed play an important role in negotiations. In these instances, the GATT round would become important since any Canada/US agreement could set precedents for multilateral action.

Trade in services causes problems which do not seem to have been fully thought out yet on this side of the border. The complexities raised by Treasury are very real, and it is hard to see how an international trade agreement could be negotiated which would change in any substantial way so

many service regulations and laws. Currently, the Congress is mired in banking law changes (e.g., interstate banking, "non-bank bank" activities) which it has been unable to resolve over the last several years, and even the Supreme Court has entered the picture with a judgement that permits some regional banking activity, but not more. At best, one might hope that if an international agreement were being negotiated, developing domestic banking legislation would take into consideration what such an agreement might be trying to achieve. But it would be hard to see how in such a critical area international considerations would take precedent over domestic requirements unless very thoroughly though out. In any event, reciprocity would become an important issue.

8) Dispute Settlement: Those within the Government almost unanimously pointed to the Israeli agreement as an example to follow (see below). There was some academic interest in binding arbitration via third parties, but even in Congress the prevailing view seemed to be similar to that of the Executive. However, it must also be emphasized that if over-all goals and priorities for a negotiation have not begun to be determined, more pragmatic issues such as dispute settlement are even more remote. The nature of the responses indicated that the question generally was not particularly expected, and that answers were "off the top of the head".

The Israeli agreement establishes a "Joint Committee" which reviews the functioning of the agree-

ment annually, and which establishes notice and consultation requirements before either party takes any action affecting bilateral trade or reducing trade barriers to third countries. It also provides for non-binding panels to assist in the settlement of disputes not resolved through consultations or by the Joint Committee (text taken from the House Report 99-64 on the US/Israel Free Trade Area).

9) Safeguards and Transitional Arrangements: While no consensus has developed on these matters either, as an initial position one might expect the US to take a relatively hard line: the purpose of a free trade agreement would be to create free trade, which would be a contradiction if safeguards were permitted to continue. Transitional arrangements would be more acceptable to the US side only to the extent that they came to a clear and non-negotiable end. This, of course, is a theoretical position; in reality, certain US industries and sectors are sure to seek transitional and/or permanent safeguards and US negotiators would be obliged to represent their interests on such matters. The Israeli agreement tied a gradual phase-out of safeguards to the gradual reduction of tariffs.

10) Auto Pact: The question of the Auto Pact is a very sensitive one, and initial reactions are to put it aside as a separate, unrelated entity outside any free trade agreement which might be negotiated. It might be regarded as essentially a

"manufacturer to manufacturer" agreement best left to them to manage and work out problems. Whether this is a realistic position is another matter; obviously if a free trade agreement were negotiated which were better than the auto pact, problems would be created immediately. Also, the aforementioned handling of safeguards and transitional agreements could have a profound impact as well, and the voice of labor would be heard more forcefully than in some other industries.

11) The US/Israel Agreement: This Agreement bears considerable study and analysis, since almost without exception, both in the Executive and the Congress, it was mentioned as a very obvious precedent to be used for the negotiation of a free trade agreement with Canada. Those who specifically denied in the Congress that it should be a precedent seemed more interested in the perception, correct or not, that the agreement was one-sided in favor of Israel. There was some feeling on the part of several Senators on the Finance Committee that the Administration, in its eagerness to reach an agreement with Israel, bent over backwards to accommodate Israeli concerns. Senator Mitchell, for example, stated publicly his view that he felt the rush for agreement had created a situation where he had not been given all the information he needed and had he known the full significance of some of the Agreement's clauses, he would have been much less agreeable about it. He said he would be sure not to let that happen again. But most important, it was made clear in the Finance Committee report that

schedules for lifting curbs and commodities covered could not be transposed simply from one country to another, and had to be negotiated nation by nation.

Nonetheless, those who view the agreement as a precedent are probably thinking less of the specific proposals and more about the general framework, which would provide the precedents needed. The principal ones are (quotations are from the previously cited House report):

a) The main purpose of the Agreement "is the reciprocal elimination of tariffs on all products traded between the two countries..." In other words, tariff reduction is the primary goal, with appropriate relationships between reductions in tariffs and reductions in subsidies.

b) Existing trade laws are essentially untouched. The Agreement does not attempt to alter countervailing or antidumping laws or similar unilateral protective measures and remedies. However, consultation is required before a party can take import relief actions.

c) The Agreement is viewed as an "adjunct to existing multilateral obligations of both parties under the GATT and relies on the GATT

framework." An objective of the US side was to assure Israeli willingness "to adhere to GATT obligations on subsidies and to phase out its export subsidies on non-primary products."

d) Performance requirements on investment are specifically prohibited.

e) Government procurement restrictions (Buy-National) are waived and are in conformity with the GATT Agreement on Government Procurement. Offset requirements are relaxed.

f) Trade in Services are treated broadly. Both parties recognize the "need to minimize restrictions...and develop means for cooperation..."

g) Safeguard provisions should be of interest to Canada particularly in view of the previously reported relatively hard-line negotiating position the US appears to be developing. In the Israeli agreement, import safeguard measures are permitted "under certain circumstances and rules of origin to ensure that only products of the US and Israel receive the benefits of the free trade area." Safeguards must be in conformity with US law as expressed in the Trade Act of 1984.

h) Dispute settlement is arranged through a Joint Committee (see above).

i) Normal termination or withdrawal requirements are waived, and agreed upon amendments are to be dealt with on an accelerated basis.

III. THE CONGRESS

1) General:

If the Executive has not yet focussed strongly on free trade arrangements with Canada, the situation is even worse in the Congress. However, since a focal point for the development of protectionist measures has become the US Congress, and it is those proclivities which concern Canada, it is important to understand the reasons for this:

a) In the highly adversarial system of Government which exists in the US, the independent legislative branch of government always provides a disgruntled constituent with a "second chance at bat." Since the Reagan administration is free trade oriented, it leaves only the Congress or the courts as vehicles for restitution of real or perceived grievances, and the courts are slow and unwieldly. The system is just as open for Canadian opponents or supporters of specific issues, including free trade.

b) The Congress is on the front line of politics and all 535 members must regularly come face to face with constituents. They therefore often serve as more accurate reflectors of the public mood.

c) Those 535 members rely on that close contact and service to constituents to remain in office. It becomes difficult to face unemployed or unhappy voters without an answer, and it is easy to blame the foreigner for problems. When there is general agreement in both branches of Government that trade is not always played on the proverbial level playing field, it becomes even easier to seek protectionist measures. Japan has been the focus of such sentiments, but inevitably other countries are caught up in the action. It is interesting that Canada, which is second only to Japan in its contribution to the US trade deficit, has not been subject to more protectionist measures. That is probably attributable to the view that on the whole trade relations with Canada are fair.

But with respect to the Congress' lack of focus on free trade with Canada, it must also be kept in mind that the Congress is a reactive body; its primary function is to write laws in support of actions proposed by the executive. While that may seem an oversimplification, the point is that the 535 men and women of the Congress must deal with almost every issue of Government (or at least every issue which requires funding). That means Congress has to focus on matters as important as tax reform and budget balancing, to such minor matters as the construction of a new post office in some rural hamlet. The time allowed for the luxury of advance study of issues is almost nonexistent. As a result, the subject of a free trade arrangement with Canada at this point has been focussed upon even less in the Congress than

in the executive. Until someone comes to the Congress with a specific proposal, Canadian free trade will not be considered as warranting much attention.

In this vein, it might be of interest that in preparation for this paper, a request was made via a friendly Congressional office for access to all information developed by the Congressional Research Service on the subject of free trade with Canada. When topics loom for discussion, most Congressional offices will turn to the CRS to develop background information. As far as could be ascertained, not one office has done so to date.

2) Key Committees and their significance:

The two key committees, mandated by law to handle international trade, are the House Ways and Means Committee and the Senate Finance Committee. As a result of the Trade Act of 1974 as further amended in 1979 and 1984, an administration wishing to bypass the usual, slow pace of most legislation through the Congress, with concurrent jurisdictions by other committees, lengthy hearings, open debate on the floor, and amendments always possible, must advise those two committees sixty days before it begins the pertinent negotiation. During that time, the Congress can decide that it disapproves of the negotiation, or it can give the green light for proceeding.

The executive must again give the two Committees notice thirty days before signature of an agreement. In return for this, the two committees are

obliged to report out implementing legislation in relatively short order, no amendments are permitted on the floor, debate is limited, and only a so-called up-down vote on the entire package is possible (often legislation is voted on in parcels, allowing for change in one part or another). This is the "fast-track" process.

As a result of this mutual interdependence between the executive and the legislature, the former (if it is wise) will be in very close touch with the two committees throughout the negotiating process, and if it becomes apparent a particular point is not acceptable to the committees, the negotiator is likely to return to the negotiating table and so inform his opposite number. While the process may appear cumbersome, it does add to the validity of the agreement finally negotiated and signed, and does commit the two Congressional Committees, who are the shepherds of the legislation through the Congress and subsequently the watchdogs over performance, to assure the success of the legislation. In effect, the two committees become a part of the process.

It is during this process that opponents of any measures will attempt to make their views known. The Congress may hold hearings at the same time as the negotiating process is going on; if as a result of the hearings one or both of the Committees become convinced that the executive is on the wrong track, that information will be fed back to the negotiators during consultations.

3) Personalities:

The two key Congressmen are Representative Rostenkowski, Chairman of the House Ways and Means Committee, and Senator Packwood, Chairman of the

Senate Finance Committee. The former, harboring ambitions to become House Speaker, is using every opportunity to advance his candidacy, and as a result is playing key roles in all matters touching his committee. One can expect him to take a lead in any free trade negotiation between Canada and the US, even though Congressman Gibbons is technically chairman of the international trade sub-committee of Ways and Means. But Gibbons cannot be ignored either, and although he likes to consider himself a free-trader, and generally is, he is also the author of the main piece of protectionist legislation currently on the table in Congress (the effort to extend the subsidies code to include natural resources subsidies. This is specifically aimed at the Canadian lumber industry, among others).

Senator Packwood is the new Chairman of the Finance Committee and undoubtedly will play a key role. But he is still a relatively unknown element. He features himself as a free-trader, but as far as Canada is concerned, he too has focussed on the lumber industry (his state of Oregon has powerful lumber interests). In addition, he is concerned about competition from Vancouver, since Oregon ports are an important economic element of that state. Senator Danforth, who chairs the sub-committee on trade, is equally concerned about Canadian trade while calling himself a philosophic free trader. It is Danforth who has authored domestic content, telecommunications, trucking and reciprocity bills over the past several years. He is likely to be a tough watchdog over negotiators. Senator Dole, now Senate Majority Leader, is a member of the

Committee too, and would play a critically important role in shepherding any bill through the Senate.

The make-up of the Finance Committee is not particularly the best for Canada. Border states such as Montana, Maine, Minnesota, New York, and Idaho, all of which have had border problems ranging from lumber and border broadcasting to potatoes and cod are represented, and Senator Heinz of Pennsylvania, always a strong supporter of steel interests, is there as well. The House Ways and Means Committee is somewhat more widespread in its geographic distribution. It is the Finance Committee which also made clear that it had reservations regarding the applicability of the Israeli Agreement to an Agreement with Canada. The intent is to leave open the possibility for Congressional exclusion of certain items (e.g. lumber, the concern of Senator Baucus who was the prime mover behind the language of the report) from any free trade arrangement.

There are lots of other members of Congress who at one time or another have shown considerable interest both pro and con Canada, and who can certainly insert themselves into the process. Suffice it to say that a lot of interests will use the Congress to make their views known and to attempt to assure protection of their positions.

In sum, the Congress is clearly not going to go along without questioning the executive. Suporters and opponents of a free trade arrangement with

Canada will use the Congress in an attempt to achieve their objective. One can anticipate some hard bargaining, but one can also anticipate that in a general sense, Congress will remain disposed favourably to free and fair trade (as seen through Congressional eyes). Most importantly, it must be kept in mind that although protectionist sentiments are expressed often and loudly in Congress, of all the legislation proposed relatively little has made it through the entire process of approval by committees in both Houses, floor approval in both Houses, passage following conference, and signature by the President, who has shown his willingness to use his veto power.

IV. THE PRIVATE SECTOR

1) General:

Private Sector views on a broad free trade arrangement are hard to obtain. Many industries came to the Government to testify about sectoral agreements, and one can reasonably assume that in some instances, opinion would not change. But it would be wrong to generalize, largely because many of those interested in sectoral agreements might very well have been so, simply because a subsidiary in Canada would benefit or be harmed. However, if free trade were to cover everything, the multi-national, or even just a large domestic company, might find that its other branches would be affected in a way that over-ruled the more narrow interest.

This fact also colors the credibility of association statements. Again, a large company may belong to an association because it has a subsidiary involved. But it might well withdraw its support of the association's position on free trade with Canada if its other interests were adversely affected.

One can conclude therefore that size of company could have a substantial impact on its position on trade with Canada. A small firm's position is not likely to change very much whether the approach is sectoral or general, while a large firm will inevitably have other considerations to ponder. The key point to remember is that no matter what the size, what the orientation, or what the industry, any firm will analyse any proposal in terms of its own bottom line. Will the agreement offer new markets? Will it lessen costs of production? Will it simplify distribution? Will it make investment decisions easier? Will taxes be affected? How will it affect the cost of labor?

This is readily apparent from a perusal of statements made for sectoral agreement hearings. Suffice it to say, wherever the industry found itself either on a relatively equal footing with its counterpart in Canada, or wherever it saw that a sectoral agreement would diminish a real or perceived advantage held by a Canadian firm, the industry favored agreement. Furniture manufacturers cheered the effort, as did the leather

workers, who saw quite complementary industries across the border. Restrictions on trade were greater on northward flows than southward.

But certain chemical manufacturers, who saw their own industries in a state of recession, and saw Canadian firms with distinct advantages of feedstock, labor, or transportation, were opposed. To them, opening up markets to Canadian penetration would put them at a definite disadvantage.

Others thought (3M) that competition was fierce world-wide, and that to survive, rationalization was necessary. Artificial barriers between the US and Canada hindered rationalization, and therefore anything that diminished those barriers was to be favored. The mining industry, particularly lead and zinc, felt already seriously threatened and opposed free trade in their sectors. Beer producers strongly opposed Canadian restrictions on US beer sales in Canada, and therefore favored sectoral agreements. Egg producers favored an agreement, but made the thoughtful comment that implementation would be difficult simply because the US and Canada have such different production and marketing strategies and techniques. Plywood manufacturers argued in favor, but only after harmonization of tariffs occurred. And finally, some supported an agreement largely because their industries were already so integrated, it did not make much difference and would tidy up the situation (Outboard Marine).

However, again it must be emphasized that the above is based upon a proposal for sectoral agreements.

In every instance, individuals interviewed indicated that no official expressions of new positions were made by any companies based on the possibility of a broader free trade agreement. Apparently, there have been some telephone conversations and occasional letters of inquiry but nothing more. Based on that slender reed, the following lists the gist of views which may have been expressed unofficially (some industries, of course, have not expressed any view and those are not listed):

1. Surface transportation: opposed to an agreement
2. Steel and steel products: also opposed
3. Petrochemicals: mixed, depending on product
4. Communications equipment: in favor
5. Textiles and clothing: opposed
6. Appliances: in favor
7. Furniture: in favor
8. Machinery: mixed
9. Printed matter and publishing: in favor
10. Rubber products: some interest
11. Alcoholic beverages: in favor (beer and wine)
12. Soap and cleaning: opposed
13. Toiletries: in favor
14. Shoes and leather: shoes opposed, leather for
15. Pharmaceutics: in favor
16. Trucking: in favor

To repeat, sectors not mentioned (e.g. glass, sporting goods, plastic products) have not been heard from in any way on the subject of broad free trade, and the above is entirely unofficial and based on only cursory conversations.

Two final points should be made: there is no major evidence that any company whether favorably or unfavorably disposed, would close up shop in one country or the other on the basis of a free trade agreement. That is not to say it would not happen, but when private companies have been asked by Government officials what they would do, the first thought has been rationalization. That would lead one to believe that if a free trade agreement were reached, there would not be any massive closing of plants, but plant functions might be considerably altered as companies seek to make use of ~~their new found~~ flexibility.

An finally, even within clearly defined sectors, it is difficult to get unanimity of opinion. There are often dozens of Associations in Washington ~~representing~~ single industries, and each may represent a different point of view. Without a clear call from the Government for private sector views on an issue, or without a massive survey which is beyond the scope of this paper, it becomes difficult ~~to provide~~ meaningful information, and to attempt to do so could be misleading.

V. CONCLUSIONS

1) The US side has begun to look at the question of some sort of free trade arrangement with Canada in only the most cursory way. This is true of the executive and legislative branches of Government

and the private sector. While views expressed regarding sectoral talks can provide some indication of specific interests, it would be dangerous to interpolate too much from that rather limited data.

2) One can already see potential for considerable difficulties. The US side refers to the Israeli agreement as a precedent, but that precedent addresses mostly tariff barriers and specifically allows to stand existing trade law restrictions (e.g. countervail). The Canadian side has already indicated it is precisely those enforcement mechanisms that it would like to negotiate.

3) When speaking in broad, general terms, there is a lot of US support for an agreement with Canada. However, on specific items, that support begins to crumble rather rapidly. There appears to be a few general principles involved: a) the agreement must show some benefit to the US, and many observers do not see that as being particularly large, at least at first; b) some industries will seek protection unless Canada can accommodate them (e.g. lumber); c) reciprocity will be important; d) there is fear that Canada will be used as a "back door" entry to the US market by third countries.

4) Both sides of the border share a concern that the other side might change the rules after they have been agreed upon. These fears are probably somewhat overblown on both sides. Addressing only the US commitment, it might be said that nothing is sure other than death and taxes, but with that

qualification, an international agreement does create a situation which is difficult to alter. This is so for the following reasons:

a) The negotiation and approval process, if followed, draws the Congress into the warp and woof of the agreement in such a way that it would become difficult for it to back out of the agreement subsequently. The process is designed to provide an opportunity for congressional concerns to be expressed and taken care of in the text of the agreement;

b) Once bills are passed and signed into law, it is a long and complicated process to change them. As mentioned elsewhere in this report, the reality is that despite much talk and many bills, few successfully challenge or change existing law. Many current protectionist efforts are aimed at enforcing existing rules and regulations, and not changing fundamental law. The current Gibbons natural resources bill is an exception, but it is still a bill and not law. It remains to be seen if it can run the full course;

c) the President does play a key role, and as long as he is free trade oriented, his veto power remains formidable and presumably would be used to fight any measures which might alter such an agreement;

d) the concern that Canada would in turn alter the agreement to its advantage would serve as a rein on efforts to change;

e) if the Israeli agreement is a precedent, there are agreed upon modalities for change should one side or the other seek such action. Presumably those who wanted change on either side of the border would use those mechanisms.

5) Despite all the pitfalls and difficulties, an agreement is probably negotiable and would be supported in the US. The question is, just what kind of an agreement it would be. Without doubt, all the special interests would come out in force, and massive lobbying campaigns would be mounted. The negotiation would be long and hard, but it would be ultimately do-able if both sides felt the commitment. If there is any sense of faltering, or any sense that Canada is not whole-heartedly behind the effort, the agreement could very quickly be emasculated. Canadian opponents could sabotage the effort quite easily if they so wished.